BEFORE THE APPEALS BOARD FOR THE KANSAS DIVISION OF WORKERS COMPENSATION

BARBARA ROWELL) Claimant)	
VS.)	Docket No. 230,206
TERRACE GARDENS RETIREMENT CENTER) Respondent)	200.00. 1.01 200,200
AND	
TRAVELERS INDEMNITY OF ILLINOIS Insurance Carrier	

ORDER

Respondent appeals the preliminary hearing Order of Administrative Law Judge John D. Clark dated March 24, 1998, wherein the Administrative Law Judge granted claimant benefits in the form of temporary total disability compensation and further ordered respondent to provide a list of three physicians from which claimant could choose her treating physician. The Order further required respondent to pay all outstanding medical bills.

Issues

Whether the claimant suffered accidental injury arising out of and in the course of her employment.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Based upon the evidence presented and for the purpose of preliminary hearing, the Appeals Board finds as follows:

Claimant alleges accidental injury arising out of and in the course of her employment beginning the night of October 22, 1997. Respondent contends claimant did not prove accidental injury as it relates to her employment because claimant's symptoms first began in the night at home. Respondent further contests claimant's allegations of a work-related accident as claimant initially advised Dr. Michael Souter that her problem began in the night. However, Dr. Souter's October 27, 1997, office note indicates that claimant's chronic lifting and activities as an "MA" may be contributing to this. As the office note of that date indicates, the doctor contacted respondent in order to obtain permission to provide physical therapy.

In addition, the March 23, 1998, report from Dr. Michael P. Estivo indicates that claimant's wrist pain and carpal tunnel syndrome were caused by her work activities. These medical opinions are uncontradicted and do support claimant's contentions that her condition continued to worsen as she performed her work activities for respondent.

The Appeals Board, therefore, finds claimant's injuries did arise out of and in the course of her employment with the respondent and the Order of the Administrative Law Judge should be affirmed.

WHEREFORE, it is the finding, decision, and order of the Appeals Board that the Order of Administrative Law Judge John D. Clark dated March 24, 1998, should be and is hereby affirmed.

IT IS SO ORDERED.
Dated this day of May 1998.
BOARD MEMBER

c: Brian D. Pistotnik, Wichita, Kansas William L. Townsley, III, Wichita, Kansas John D. Clark, Administrative Law Judge Philip S. Harness, Director